

## **IC 3-11-6.5**

### **Chapter 6.5. Voting System Improvement**

#### **IC 3-11-6.5-0.3**

##### **"Fund"**

Sec. 0.3. As used in this chapter, "fund" refers to the election administration assistance fund established by section 2 of this chapter.

*As added by P.L.209-2003, SEC.118.*

#### **IC 3-11-6.5-0.5 Repealed**

*(Repealed by P.L.97-2004, SEC.133.)*

#### **IC 3-11-6.5-0.7**

##### **"Purchase"**

Sec. 0.7. As used in this chapter, "purchase" includes the purchasing, leasing, and lease-purchasing of voting systems.

*As added by P.L.209-2003, SEC.119.*

#### **IC 3-11-6.5-1**

##### **Quantity purchase agreements; purchase of voting systems by state; purchase of voting system by counties for voters with disabilities**

Sec. 1. (a) As used in this section, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) The department shall award quantity purchase agreements to vendors for new voting systems or upgrades or expansion of existing voting systems by counties.

(c) Both of the following must apply before the department may issue a quantity purchase agreement to a voting system vendor:

(1) The commission has found that all of the following would be enhanced by the vendor's new or upgraded voting system:

(A) Reliability of a county's voting system.

(B) Efficiency of a county's voting system.

(C) Ease of use by voters.

(D) Public confidence in a county's voting system.

(2) The commission has otherwise approved the vendor's new voting system or the upgrade or expansion of the existing voting system for use under this title.

(d) The quantity purchase agreement must include options for a county to:

(1) purchase;

(2) lease-purchase; or

(3) lease;

new voting systems or upgrades or expansion of existing voting systems.

(e) The purchase of new voting systems or upgrades or expansions of existing voting systems by a county or under a quantity purchase agreement entered into by the department under this section is considered an acquisition by the state for purposes of 42 U.S.C.

15401 if the voting system, upgrade, or expansion complies with 42 U.S.C. 15481 through 15502.

(f) Not later than December 31, 2005, each county shall purchase at least one (1) voting system under this section for each polling place in the county to meet the requirements set forth under IC 3-11-15-13.

*As added by P.L.239-2001, SEC.7. Amended by P.L.209-2003, SEC.120.*

### **IC 3-11-6.5-2**

#### **Election administration assistance fund; purpose; administration of fund**

Sec. 2. (a) In accordance with 42 U.S.C. 15404, the election administration assistance fund is established for the following purposes:

- (1) As provided by 42 U.S.C. 15401, to carry out activities to improve the administration of elections for federal office.
- (2) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 if the state obtains the equipment after November 7, 2000.
- (3) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 under a multiyear contract incurred after December 31, 2000.
- (4) For reimbursing counties for the purchase of new voting systems or for the upgrade or expansion of existing voting systems that would not qualify for reimbursement under subdivision (2) or (3).

(b) The fund consists of the following:

- (1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.
- (2) All money allocated to the state by the federal government:
  - (A) under Section 101 of HAVA (42 U.S.C. 15301), as required by 42 U.S.C. 15304;
  - (B) under Section 102 of HAVA (42 U.S.C. 15302), as required by 42 U.S.C. 15304;
  - (C) under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408); and
  - (D) under any other program for the improvement of election administration.
- (3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and separate accounts within the fund for any money received by the state from the federal government for each source of allocations described under subdivision (2). Proceeds of bonds issued by the Indiana bond bank

under subdivision (3) may be deposited into any account, as determined by the election division.

(c) The secretary of state with the consent of the co-directors of the election division shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the Section 101 account of the fund. If money is not available for this purpose in the Section 101 account of the fund, the expenses of administering the fund shall be paid from money appropriated under subsection (b)(1).

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund and allocated among the accounts within the fund according to the balances of the respective accounts.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is appropriated continuously for the purposes stated in subsection (a).

*As added by P.L.239-2001, SEC.7. Amended by P.L.209-2003, SEC.121.*

#### **IC 3-11-6.5-2.1**

##### **Administration of fund under HAVA state plan**

Sec. 2.1. The secretary of state, with the consent of the co-directors of the election division, may administer the fund in accordance with the HAVA state plan, as published in the Indiana Register on November 1, 2003. The state plan may be amended in accordance with the requirements of HAVA and the procedures for amendment set forth in the plan. If the plan is amended as provided in this section, the fund may be administered in accordance with that amendment.

*As added by P.L.14-2004, SEC.107.*

#### **IC 3-11-6.5-3**

##### **Repealed**

*(Repealed by P.L.209-2003, SEC.203.)*

#### **IC 3-11-6.5-3.1**

##### **Use of HAVA Title II funds; certifications; maintenance of expenditures**

Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.

(b) Except as provided in subsection (c), money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section

101 of HAVA (42 U.S.C. 15301) if the secretary of state, with the approval of the co-directors of the election division, files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. 15401(b)(2)(B)).

(d) If the secretary of state makes the certification described in subsection (c), the secretary of state, with the approval of the co-directors of the election division, may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.

(e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

*As added by P.L.209-2003, SEC.122. Amended by P.L.97-2004, SEC.5.*

#### **IC 3-11-6.5-4**

##### **Applications for reimbursement from fund; approval of reimbursements**

Sec. 4. (a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the budget agency determines either of the following:

(1) The county has purchased or will purchase a new voting system or an upgrade or expansion of an existing voting system to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, that would not qualify for reimbursement from federal funds received under HAVA, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

(A) Reliability of the county's voting system.

(B) Efficiency of the county's voting system.

(C) Ease of use of the county's voting system by voters.

(D) Public confidence in the county's voting system.

*As added by P.L.239-2001, SEC.7. Amended by P.L.209-2003, SEC.123.*

### **IC 3-11-6.5-5**

#### **Reimbursement of county from fund; expiration of section**

Sec. 5. (a) If a county's application is approved under section 4 of this chapter, the secretary of state with the consent of the co-directors of the election division shall, subject to this section, reimburse the county from the fund an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

(b) Payment of money from the fund is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

(c) It is the intent of the general assembly that a county eligible for reimbursement under section 4 of this chapter be reimbursed from federal money received by the state to the maximum extent permitted by federal law.

(d) This section expires January 1, 2006.

*As added by P.L.239-2001, SEC.7. Amended by P.L.209-2003, SEC.124.*

### **IC 3-11-6.5-6**

#### **Repealed**

*(Repealed by P.L.209-2003, SEC.203.)*

### **IC 3-11-6.5-6.1**

#### **Priority given to replacement of punch card and machine voting systems**

Sec. 6.1. (a) When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

(b) This section expires January 1, 2006.

*As added by P.L.209-2003, SEC.125. Amended by P.L.221-2005, SEC.47.*

### **IC 3-11-6.5-7**

#### **Repealed**

*(Repealed by P.L.209-2003, SEC.203.)*

### **IC 3-11-6.5-7.1**

#### **HAVA Section 102 funds; reimbursements to counties**

Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state, with the consent of the co-directors of the election division, shall

review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee, shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection (h), reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

*As added by P.L.209-2003, SEC.126. Amended by P.L.97-2004, SEC.6.*

### **IC 3-11-6.5-8**

#### **HAVA Section 101 funds; reimbursements to counties**

Sec. 8. (a) This section applies to money received under Section 101 of HAVA (42 U.S.C. 15301) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used with the approval of the co-directors of the election division for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.

(3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to

receive reimbursement under subsection (c).

(e) To receive reimbursement under this section, a county must make an application to the election division in the form required by the election division. If the county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003:

(1) the application may be amended to comply with this chapter; or

(2) the county may file a new application under this section.

The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application.

(f) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this section if the budget agency determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

(g) If a county's application is approved under subsection (c)(2), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund in an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

(i) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

*As added by P.L.239-2001, SEC.7. Amended by P.L.209-2003, SEC.127; P.L.97-2004, SEC.7.*